IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

MFA.No. 184 of 2002()

OPMV.55/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA
.....

APPELLANT: PETITIONER

K.JACOB MANUEL, KADAVILPARAMBIL HOUSE,
AROOR P.O., CHERTHALA.

BY ADV. DR.P.S.KRISHNA PILLAI
SRI.D.PREM KAMATH

RESPONDENTS: RESPONDENTS
----

1. T.G.RAMLAL, THARAYIL HOUSE,
VETTAKKAL P.O., CHERTHALA.

2. THE UNITED INDIA INSURANCE CO.LTD.,
BRANCH N.S.S. UNION BUILDING, CHERTHALA,
REPRESENTED BY ITS MANAGER.

BY ADV. SRI.M.A.GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

==========

M.F.A. NO. 184 OF 2002

==========

Dated this the 4th day of June, 2007

J U D G M E N T

Petitioner in O.P.(MV) NO.55 of 1998 on the file of the Motor Accidents Claims Tribunal, Alappuzha is the appellant. He has filed this appeal challenging the quantum of compensation awarded to him. Petitioner, who was working as a Tally/Table Supervisor in the Cochin Port Trust, met with a road traffic accident at about 10.00 a.m. on 1.10.1997. According to him he was standing on the western side of the median to cross the road. At that time a Scooter bearing Reg. No.KRA-2783 ridden by the first respondent came and hit against the petitioner and he sustained injuries. Petitioner filed the O.P. impleading the rider of Scooter and also the insurer claiming a sum of Rs.80,000/- as compensation. According to the petitioner the accident occurred due to the negligence of the rider of the Scooter and the vehicle was covered with a valid policy of insurance. The Tribunal, after considering the evidence, found that the accident occurred due to the negligence of the rider of the Scooter. It was also

found that the petitioner is entitled to get a compensation of Rs.15,200/- with 9% interest. The Tribunal found that the vehicle was covered with a valid policy of insurance issued by the second respondent and it is liable to pay the amount. Petitioner has filed this appeal contending that the quantum of compensation awarded by the Tribunal is very low.

2. It is not disputed that the petitioner was working as a Tally/Table Supervisor in the Cochin Port Trust and drawing a salary of Rs.7,418.90 per mensum. It was also not disputed that the petitioner was on medical leave for 120 days. Petitioner produced a disability certificate showing that he sustained a permanent disability of 10%. Tribunal rejected the claim of compensation on the count of disability holding that the fracture had united well and petitioner has not suffered any non-union or mal-union so as to cause disability.

3. The Tribunal went wrong in holding that only in case there is mal-union or non-union there will be disability. Tribunal awarded only Rs.7,500/- towards compensation for disability holding that there is some disability. Towards compensation for pain and suffering the Tribunal has awarded only a sum of Rs.5,000/-. The Tribunal awarded Rs.2,200/-

towards compensation for medical expenses and Rs.500/- towards transportation to hospital and extra nourishment. Considering all aspects of the case, I am of the view that the Tribunal ought to have awarded at least another 15,000 rupees on all counts together. The amount of compensation awarded for pain and suffering, disability, treatment, etc., all are low. Instead of awarding compensation under different heads, a consolidated amount of Rs.15,000/- can be awarded as additional compensation on all counts, which will carry interest also at the rate of 7% per annum. The insurer is also liable to pay that amount.

In the result, the appeal is allowed in part. The appellant is awarded a further sum of Rs.15,000/- towards additional compensation on all counts with 7% interest from the date of petition till date of realisation. Insurer is directed to pay that amount also. On deposit, the appellant can withdraw the said amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

==========

M.F.A. NO. 184 OF 2002

==========

J U D G M E N T

4TH JUNE, 2007